

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

DARRYL GRIZZARD,

Defendant.

Case No. 2:17-cr-20640-14

HONORABLE STEPHEN J. MURPHY, III

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OPINION AND ORDER
DENYING MOTION FOR COMPASSIONATE RELEASE [618]

Defendant Darryl Grizzard recently moved for compassionate release. ECF 618. Because Defendant admitted in his motion that he did not exhaust his administrative remedies, the Court did not order the Government to respond. ECF 618, PgID 7372.

Under the First Step Act's compassionate release provision, the Court may modify Defendant's sentence only if: (1) he has exhausted all administrative remedies, or (2) thirty days have passed since the warden received Defendant's request for the Bureau of Prisons to bring a motion on his behalf. 18 U.S.C. § 3582(c)(1)(A). The exhaustion condition is "mandatory." *United States v. Alam*, 960 F.3d 831, 833–34 (6th Cir. 2020) (alteration in original) (quoting 18 U.S.C. § 3582(c)(1)(A)). Plus, it is Defendant's burden to establish that he has exhausted all his administrative remedies. *See United States v. Pena-Lora*, No. 15-20695, 2020 WL 3886384, at *1 (E.D. Mich. July 9, 2020) (citation omitted).

Here, Defendant has explained that he need not "exhaust [his] administrative remeides [sic] when [his] life is in jeopardy." ECF 618, PgID 7373. To support that claim, Defendant cites a case from the Second Circuit. *Id.* But in the Sixth Circuit, exhaustion is "mandatory[.]" *Alam*, 960 F.3d at 833–34, and that holding is binding, *Wright v. Spaulding*, 939 F.3d 695, 700 (6th Cir. 2019). Because Defendant admits that he failed to exhaust his administrative remedies, the Court will deny the motion for compassionate release without prejudice. Defendant may refile the motion after he has satisfied either condition of § 3582(c)(1)(A).

WHEREFORE, it is hereby **ORDERED** that the motion for compassionate release [618] is **DENIED WITHOUT PREJUDICE**.

SO ORDERED.

s/ Stephen J. Murphy, III
STEPHEN J. MURPHY, III
United States District Judge

Dated: December 17, 2020

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on December 17, 2020, by electronic and/or ordinary mail.

s/ David P. Parker
Case Manager